IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE V.ESWARAIAH**

**WRIT PETITION NO : 25345 of 2003**

Between:

T.R.Koteshwar Rao, S/o T.Krishna Murthy,
R/o D.No.13-6-600/37, Pedakapur Layout, Tirupathi,
zChittoor District.

**..... PETITIONER**

AND

1. Andhra Pradesh State Road Transport Corporation rep.by its Regional

Manager, Tirupati Region, Chittoor District.
2 The Divisional Manager, APSRTC Tirupathi,
Chittoor District.
3 The Depot Manager, APSRTC Tirupathi Depot,
Tirupathi, Chittoor District.

**.....RESPONDENTS.**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ (I) declaring the proceedings No.01/804(5)/2002-TPT, Dated 1-7-2003 is illegal and arbitrary (ii) declare the proceedings No.Steno/20(73)/2003-DVM(T) dated 26-08-2003 of the second respondent as illegal and arbitrary and consequently set aside the punishment with further direction to refund the amounts already recovered from the salary of the petitioner

**Counsel for the Petitioner:MR.G.VIDYASAGAR**

**Counsel for the Respondents: Mr. P.Venukaswamy, Standing Counsel for A.P.S.R.T.C.,**

**The Court made the following :**

**ORDER:**

The petitioner questions the order of the Depot Manager, A.P.S.R.T.C. Tirupati dated 01-07-2003, imposing punishment of reduction of two incremental stages for a period of one year without cumulative effect besides recovery of Rs.2,09,927-25 Ps. from the salary of the petitioner in 40 instalments at the rate of Rs.1,000/- per month and also treating the suspension period as not on duty. Against the said order, the petitioner filed an appeal before the Divisional Manager, Tirupati and the said appellate authority by order dated 28-03-2003 rejected the appeal, confirming the order of the Depot Manager. Questioning both the said orders, this writ petition is filed.

2. The petitioner joined as a Conductor in A.P.S.R.T.C. in the year 1971, thereafter he was promoted to the higher post as Traffic Inspector, Grade-III/Depot Clerk in the year 1998. He worked as Depot Clerk (Earnings) at Tirupati from 1999 to 2002. He was responsible for placing the indents tickets denomination wise for the consumption, once in a month, account for all the tickets received and issued in M.T.D.-IV register, including missing tickets, supply of tickets to dispatching Assistant Depot Clerks daily for maintaining the registers, collection of bus cash and depositing the same in the banks and also responsible for supervision of the dues of the Assistant Depot Clerks in the earnings wing. One of such duties assigned to him is to obtain the permission from the Deputy General Accounts Officer for destroying the soiled, mutilated and obsolete tickets by constituting a Committee consisting of Depot Clerk (Earnings), Security Head Guard and Audit Inspector. In May, 2001,

certain tickets available in the trays of different conductors were found un-usable for sale and certain defamed and over stamped tickets were available; accordingly a request was made to the Core Group Supervisor for creating dummy trays for transfer of all the tickets, which are not useful for sale so as to obtain the consent for destruction of the same in accordance with the guidelines issued by the Corporation. It is stated that the sanction was given for the destruction of the tickets of face value of Rs.74,44,707-25 Ps. The Core Group Supervisor was requested dummy trays from the computer, since the tickets were reflected in the dummy trays destroyed. It is stated that the ticket trays pertaining to 951, 952 and 953 were not found, as they were not traceable. But on verification, it was found that the said tickets were destroyed along with other tickets trace on 25-04-2002 and the same was found in the Audit for the year 2002. However, on the premise that the petitioner had not obtained a specific sanction for destroying the said tickets, he was placed under suspension by order dated
18-10-2002 with the following charges:

> "The single charge against the Depot Clerk (E) is that he had lost the tickets worth of Rs.2,09,927-25 Ps. From the depot stock pertaining to the tray Nos.951, 952 and 953 as showing the statement of allegations while he was the Depot Clerk (E)/Tirupati Depot which shows his gross negligence in discharging duties which constitutes misconduct under Reg.28 (v) & ix a) of A.P.S.R.T.C. Employees (Conduct) Regulations 1963."

3. The Enquiry Officer conducted a detailed enquiry for the above said charge and found that the systematic procedure was not followed by the Committee for destruction of tickets on both the occasions and the circumstantial evidence lead to come to conclusion that the obsolete tickets of trays Nos.951, 952 and 953 might have been destroyed on 25-04-2003. The enquiry further revealed that the said tickets were transferred to trays Nos.951, 952 and 953 and found that they were either mutilated or soiled condition and such tickets were only transferred to the said trays. It is further stated that some of the higher denomination tickets which were transferred, were kept idle in the trays since November, 2000 and that they had become misfit and therefore there is no scope for misuse of all the said tickets, and they were kept separately and therefore the circumstantial evidence leads to come to conclusion that the said tickets have been destroyed. The Enquiry Officer further held that there was responsibility on the petitioner to obtain the sanction in case of

the obsolete tickets of the said trays and then only destroy them, but he has failed to do so while discharging the duties of destroying the tickets. Accordingly, it was found that the petitioner has failed to produce the sanction of the competent authority for destruction of the tickets of the said trays which amounts to loss of obsolete ticket trays Nos.951, 952 and 953 worth Rs.2,09,927-25 Ps., due to his negligence. Pursuant to the said enquiry report dated 17-0-2003, a show-cause notice was issued for submitting explanation of the petitioner and the Depot Manager passed final order dated 01-07-2003 imposing the aforesaid punishment of reducing the basic pay of the petitioner by 2 incremental stages for a period of one year without cumulative effect besides recovery of Rs.2,09,927-25 Ps. and also the period of suspension be treated as “Not on duty”. The appellate authority simply confirmed the same order without dealing with any objections raised by the petitioner.

The learned counsel appearing for the petitioner submits that in fact the tickets were not at all mis-used and the Enquiry Officer specifically found that the tickets were not at all misused and the circumstantial evidence only goes to show that the said tickets were destroyed. In so far as the trays of the tickets are concerned, there is a clear finding that all the said tickets were misfit as they were mutilated and in a soiled condition and become obsolete and that only the useless tickets were destroyed. By the reason of the destruction of the said tickets, as rightly held by the Enquiry Officer, there is negligence on the part of the petitioner in not obtaining the sanction but there is no allegation that the said tickets were misused. Therefore, the only loss of the obsolete tickets is the printing charges of the said tickets alone but not the worth of the said tickets, which were not at all used to travelling public and no amount was collected by misusing the said tickets. Therefore, the question of collecting the face value of the tickets without putting them into use or misuse does not arise. A similar question arises for consideration of this Court in the case of ***Ch.P.Reddy v. APSRTC, Hyderabad*****,** wherein my learned brother Sri Bilal Nazki, J. while dealing with a similar contention and the relevant regulation 8, which deals with penalty empowers the Corporation to recover from the pay of any beneficial loss caused to the Corporation by an employee’s negligence or breach of orders but not the face value of the tickets. In the instant case also, admittedly there was neither any allegation that there was any fraud committed by the petitioner nor there was any finding to the fact that the petitioner or anybody else had used the tickets, which could incur a loss for the Corporation. The Regulation 8, which deals with penalties,

does not permit the Corporation to impose penalty, which is more than the amount of the loss sustained by the Corporation. Admittedly in this case the respondents have not suffered any loss of the amount, as the said tickets were not sold to the passengers traveling in the buses. They have only suffered the loss, which was incurred by the Corporation in their printing and stacking. The learned counsel appearing for the petitioner clearly submits that he has no grievance in so far as the punishment imposed by the Respondent-Corporation with regard to the deduction from basic pay by two incremental stages for a period of one year without cumulative effect and also treating the period of suspension as 'not on duty' but he has mainly challenged the said order in respect of the recovery of Rs.2,09,927-25 Ps.

For the aforesaid reasons, the orders in so far as the recovery of the value of the worth of destroyed tickets is set aside. Even according to the respondents, the destroyed tickets have become totally obsolete and even they were not at all used and there was no misuse and therefore the question of recovery of the cost of the printing charges also does not arise. For not obtaining the permission, the punishment imposed by the respondents by stopping the two increments and keeping the suspension period as not on duty, is just and proper and there cannot be any further punishment for destroyed tickets. Accordingly, the writ petition is allowed. No order as to costs.

_____

**V.ESWARAIAH, J.**

20th July, 2004.

CHVN/MRR.

To

1. The Regional Manager,
   A.P.S.R.T.C., Tirupati Region,
   Chittoor District.

2. The Divisional Manager, A.P.S.R.T.C.,

Tirupati, Chittoor District.

3. The Depot Manager, A.P.S.R.T.C.,

Tirupati, Chittoor District.

4. Two C.D.copies.